

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-017-C - ORDER NO. 96-302 ✓
APRIL 25, 1996

IN RE: Application of US South Communications,) ORDER
Inc. D/B/A US South and D/B/A INCOMM) APPROVING
for a Certificate of Public Convenience) CERTIFICATE
and Necessity to Operate as a Reseller)
of Intrastate Resold Telecommunications)
Service within the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of US South Communications, Inc. D/B/A US South and D/B/A INCOMM ("USS" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1995) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed USS to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of USS's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. USS complied with this instruction and provided the Commission with proof of publication

of the Notice of Filing. No protests or Petitions to Intervene were received by the Commission.

A hearing was commenced on April 16, 1996, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. USS was represented by Frank R. Ellerbe, III, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Norman Conway, Manager of Long Distance Services for USS, appeared and offered testimony in support of USS's Application. Mr. Conway testified that USS proposes to offer long distance services using resold transmission services of carriers certificated to carry traffic in South Carolina. Presently, USS uses MCI as its underlying carrier. Mr. Conway explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a reseller. He further explained the Company's services, operations and marketing procedures.

Mr. Conway also offered that USS possesses the technical, financial and managerial abilities to provide its services in South Carolina. The record reveals that the Company will make certain changes to its proposed tariff to comply with Commission guidelines and prior Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. USS is incorporated under the laws of the State of Georgia and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. USS operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. USS has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to USS to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for USS for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. USS shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. USS shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1995).

4. USS shall file its revised maximum tariff and an accompanying price list within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. USS is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an

end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. USS shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If USS changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, USS shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. USS shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. With regard to USS's debit card, the Commission requires that the Company, as a condition of receiving authority to offer the debit card, post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000. A Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

11. If the Company sells its debit cards to retail establishments for resale of the debit card, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, or as approved by the Commission in a special promotion, then USS will withdraw its cards from that retail outlet. This Commission strongly suggests that USS enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)